IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **F.A.O. No. 1754 of 2007**
Date of decision: 14.9.2007

Rajinder Singh **...Appellant**

Versus

Jasprit Kaur and others **...Respondents**

2. **F.A.O. No. 1755 of 2007**
Date of decision: 14.9.2007

Rajinder Singh **...Appellant**

Versus

Kulwinder Kaur and others **...Respondents**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Vikas Suri, Advocate for the appellant.

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RAJESH BINDAL, J.

This order will dispose of two appeals against the award of the Motor Accident Claims Tribunal, Ferozepur (for short "the Tribunal") arising out of a single accident where both the riders of the motorcycle expired.

2. Learned counsel for the appellant submitted that it was a case of contributory negligence as the motorcycle had struck against a stationary tractor trolley and keeping that in view reasonable percentage of compensation had to be reduced. He submitted that tractor trolley was parked on the side of the road when the motorcycle struck against it. As against this, the Tribunal found that accident occurred at 9.00 P.M. while the tractor trolley was parked on road without any reflector lights. It was due to negligent parking of the tractor trolley that the accident occurred and that entire fault lie with the driver of the tractor trolley. The submission of the learned counsel for the appellant that infact in the claim petition, it was mentioned that accident occurred at 4.00 P.M. deserves to be noticed and rejected for the simple reason that the claim petition was filed on January 8,

2004 whereas much prior thereto in the statement of father of the deceased, recorded under Section 174 of Code of Criminal Procedure on April 18, 2004, it was specifically stated that accident occurred at 9.00 P.M. The stand taken by the claimants cannot be doubted that in case tractor trolley is parked on the road without any indication, it is nothing else but a negligent act, which can result into an accident and as such it was rightly held by the Tribunal that parking of the vehicle without any indication on the road was a negligent act on the part of the appellant. The issue of delayed recording of FIR is also not fatal for the reasons that two deaths had occurred in the family in this unfortunate accident.

3. With this material on record, I do not find any illegality has been committed by the Tribunal in assessing the compensation payable to the claimants.

4. Accordingly, the appeals are dismissed.

September 14, 2007 **(Rajesh Bindal)**
Pka **Judge**